

# Industry Wary of Tech Transfer Bills

Technology transfer legislation is not likely to start moving through Congress until fall, but provisions in the House and Senate bills already are creating a stir. The proposals' aim is to enhance productivity of the nation's 380 federally owned research laboratories and to increase industry's access to technologies spawned by these facilities.

At first glance, it does not appear that there is much to debate. The legislation has attracted the support of Senate Majority Leader Robert Dole (R-Kans) and House Minority Leader Robert Michel (R-Ill.), who are sponsoring S. 65 and H.R. 695, respectively. And a similar bill, H.R. 1572, is being sponsored by five members of the House subcommittee on science, research and technology. But industry lobbyists are scrutinizing provisions in the House and Senate bills dealing with royalty assignments.

The sponsors of the three bills want to give federal labs greater authority to enter into joint agreements with private parties and to provide a better reward system for federal inventors. Under the legislative proposals, the laboratories would get 100 percent of all royalties paid by manufacturers for inventions. The revenues could be used to finance new research programs as well as pay inventors' royalty fees and cover related administrative costs.

The proposed amendments to the Stevenson-Wydler Technology Innovation Act of 1980 are targeted at federally operated laboratories like the National Bureau of Standards. It would permit them to transfer technology to industry and to enter into technology development pacts. Except for a handful of Department of Energy facilities, federal labs have lacked adequate legal authority to reassign patent rights. Passage of these provisions would cap a 3-year effort by the Reagan administration to improve industry's access to federal laboratory inventions and facilities.

The most controversial issue is a proposal to reward government inventors with "at least 15 percent" of the royalties on any invention licensed for commercial uses. Industry views it as a potential threat—because it could trigger legislation to require specific compensation for private inventors. "It would set an unfortunate precedent . . ." and have an "anti-innovative impact," contends Richard C. Witte, chief counsel for Procter & Gamble Co., and chairman of the National Association of Manufacturers' task force on intellectual property.

"I don't think that NASA, DOD, or DOE employees should be moonlighting on the job," says Russell C. Drew, the Institute of Electrical and Electronics Engineers' (IEEE) vice president for professional affairs. "We don't want the laboratories mission subverted," says Drew, who fears the laboratories might change their orientation to short-term research that has greater commercial value. "We don't need any more competition from federal laboratories," says Drew, a former NASA scientist. His company, Viking Instruments Corp., manufactures a portable spectrometer under an exclusive license from the National Aeronautics and Space Administration (NASA).

The Reagan Administration has yet to take a position on the legislative proposals so far. In part, this is because agencies such as the NASA and the Department of Defense are at odds with the compensation formula, which the

Department of Commerce supports. NASA, which has its own reward system, says the the legislation is not balanced. It fails to consider the need to compensate scientists and inventors with discoveries that don't have products or ideas with commercial applications, they argue.

Furthermore, the legislation leaves it to each of the national laboratories to make its own deals. This decentralized approach can be unwise and in some cases unworkable for some agencies, DOE officials say. The laboratories, they note, frequently need legal and technical guidance from headquarters. In addition, DOE officials say there is a need to be able to reward other people who have contributed to the development of an invention but are not the legal inventors.

Management needs the flexibility to make awards that are commensurate with the value of an invention and to compensate other people, says Representative Edward Zschau (R-Calif.). A sponsor of H.R. 695, he says the legislation must be revised to address these problems.

In the wake of testimony presented 21 and 22 May before the House subcommittee on science, research and technology and the absence of a formal administration position, congressional aides are saying the legislation must be overhauled. Commerce Department officials concede that some modification of existing language to provide administrative flexibility will be required.

To help foster this technology transfer, H.R. 1572 contains a provision that establishes a Federal Laboratory Consortium for Technology Transfer within the National Science Foundation. This organization already exists at NSF but is slated to be shut down in fiscal year 1986, which begins 1 October. In line with the Administration's plan, NSF is officially opposed to reestablishing the consortium within the agency. And there are indications that Congress may does not want the group centered at NSF.

Senate legislation (S. 65) and the bill offered by the minority in the House (H.R. 695) call for empowering the Department of Commerce to monitor and promote technology transfer between the national laboratories and the private sector. However, behind-the-scenes bad blood between some Commerce Department officials and their counterparts in affected federal agencies is fueling opposition to the concept. Just how this will be resolved remains unclear, although subcommittee chairman Doug Walgren (D-Pa.) favors giving Commerce the responsibility.

The speed with which the legislation moves through the House this fall may be affected by the cloud that has been cast over Commerce's role in this legislation. Representative John Dingell (D-Mich.), chairman of the House Energy and Commerce Committee requested the General Accounting Office to examine whether the department had gone too far in pushing legislation and had in fact lobbied.

Dingell raised this issue with Commerce Secretary Malcolm Baldrige in a 22 April letter, stating that "at the very least" it appeared as though there was "a Czar-like approach from Commerce officials toward other agencies and an intention to engage in lobbying activities not authorized by law." Commerce officials deny that their has been any wrongdoing. Nevertheless, Dingell has asked that Commerce's inspector general look into the matter and report on any violations of law.—**MARK CRAWFORD**